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HOUSE BILL 1023

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

INTRODUCED BY

JUDY VANDERSTAR RUSSELL

AN ACT

RELATING TO CRIMINAL SENTENCING; CHANGING THE DEFINITION OF
VIOLENT FELONY FOR THE PURPOSES OF THE CRIMINAL SENTENCING ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 31-18-23 NMSA 1978 (being Laws 1994,
Chapter 24, Section 2, as amended) is amended to read:

"31-18-23. THREE VIOLENT FELONY CONVICTIONS-- MANDATORY
LIFE IMPRISONMENT-- EXCEPTION. --

A. When a defendant is convicted of a third violent
felony, and each violent felony conviction is part of a separate
transaction or occurrence, and at least the third violent felony
conviction is in New Mexico, the defendant shall, in addition to
the sentence imposed for the third violent conviction when that
sentence does not result in death, be punished by a sentence of
life imprisonment. The life imprisonment sentence shall be

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1 subject to parole pursuant to the provisions of Section 31-21-10
2 NMSA 1978.

3 B. The sentence of life imprisonment shall be
4 imposed after a sentencing hearing, separate from the trial or
5 guilty plea proceeding resulting in the third violent felony
6 conviction, pursuant to the provisions of Section 31-18-24 NMSA
7 1978.

8 C. For the purpose of this section, a violent felony
9 conviction incurred by a defendant before he reaches the age of
10 eighteen shall not count as a violent felony conviction.

11 D. When a defendant has a felony conviction from
12 another state, the felony conviction shall be considered a
13 violent felony for the purposes of the Criminal Sentencing Act
14 if that crime would be considered a violent felony in New
15 Mexico.

16 E. As used in the Criminal Sentencing Act,

17 [~~(1) "great bodily harm" means an injury to the~~
18 ~~person that creates a high probability of death or that causes~~
19 ~~serious disfigurement or that results in permanent loss or~~
20 ~~impairment of the function of any member or organ of the body;~~
21 ~~and~~

22 (2)] "violent felony" means

23 [(a) ~~murder in the first or second~~
24 ~~degree, as provided in Section 30-2-1 NMSA 1978;~~

25 (b) ~~shooting at or from a motor vehicle~~

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1 ~~resulting in great bodily harm, as provided in Subsection B of~~
2 ~~Section 30-3-8 NMSA 1978;~~

3 ~~(c) kidnapping resulting in great bodily~~
4 ~~harm inflicted upon the victim by his captor, as provided in~~
5 ~~Subsection B of Section 30-4-1 NMSA 1978; and~~

6 ~~(d) criminal sexual penetration, as~~
7 ~~provided in Subsection C or Paragraph (5) or (6) of Subsection D~~
8 ~~of Section 30-9-11 NMSA 1978; and~~

9 ~~(e) robbery while armed with a deadly~~
10 ~~weapon resulting in great bodily harm as provided in Section~~
11 ~~30-16-2 NMSA 1978 and Subsection A of Section 30-1-12 NMSA 1978]~~
12 any felony involving the use or threatened use of force or
13 violence. "

14 Section 2. EFFECTIVE DATE. -- The effective date of the
15 provisions of this act is July 1, 1997.

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